IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 13719 of 2007(G)

PETITIONER:

CHERIYAMADAMPOYIL USMAN,
S/O.AOVULLA,53 YEARS,
KAKKIOTTOMMAL,VANIMEL AMSOM,
DESOM,VADAKARA.

BY ADV. SRI.K.SIVAKUMAR

RESPONDENTS:

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1. TAHSILDAR,
TALUK OFFICE,
VATAKARA.

2. AYISHA,S/O.ANDHRU,
40 YEARS,ELANGARAMGOTT,
H.I.MANZIL,KAYAKKODI AMSOM,
AKKAL DESOM,VADAKARA TALUK,
KOZHIKODE DISTRICT.

BY ADV. SMT.M.K.PUSHPALATHA, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 13719 of 2007

Dated, this the 1st day of June, 2007

J U D G M E N T

The amount sought to be recovered vide Ext.P4 is the maintenance payable, awarded by JFCM against the petitioner, which was confirmed by the Additional District and Sessions Judge vide Ext.P1. Since maintenance orders are not under challenge, there is no scope for entertaining challenge against recovery proceedings. The prayer in the W.P. is only for grant of installment facility based on petitioner's sickness and financial difficulty. The 2nd respondent, for whose benefit execution is initiated, is divorced by petitioner and thereafter he remarried. If notice is issued to 2nd respondent, I feel it will lead to expenditure and loss to her. In the circumstance, and taking the interest of the 2nd respondent, I dispose of the W.P. by granting installment facility with a further condition that petitioner will pay an additional sum of Rs. 10,000/- in addition to Rs. 75,000/- sustained by the lower courts. Petitioner will remit Rs. 25,000/- towards first installment on or before 30/06/2007 and the balance including the additional amount of Rs. 10,000/- in six equal monthly installments, which will be paid on or before last date of succeeding six months, before the 1st

respondent, along with the interest at the rate ordered by the trial court. If the petitioner remits the payment as above, no collection charges in excess of the amount mentioned below will be recovered from him. If petitioner commits default, Tahsildar will treat the installment facility granted as cancelled on first default and can proceed for recovering entire amount together with an additional amount of Rs. 10,000/- ordered by this Court and pay to the 2nd respondent. There will be direction to 1st respondent to forward the amount remitted by the petitioner to the 2nd respondent without any delay. Recovery proceedings will be kept in abeyance on payment as above and the same will stand revoked on first default. Petitioner will produce copy of the judgment before the 1st respondent for compliance. Registry will forward a copy of this judgment to 2nd respondent for information. As and when recovery is over petitioner will remit Rs. 2,000/- to the Tahsildar, which will be remitted to the Government Treasury towards collection charges.

This WP(C) is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg